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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,396	10/09/2000	Donald Espie Hay	20267	4764

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EXAMINER

SPISICH, MARK

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/686,396

Applicant(s)

HAY, DONALD ESPIE

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/29 & 11/13 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Claims 7-11 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Comment Re Claim 5

It is noted that claim 5 (as submitted in the supplemental amendment) is not a duplicate of the original claim (as indicated). It includes what appears to be an inadvertent error ("a recess within" (line 2)) which should be deleted.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Bauler (USP 2,124,647). The patent to Bauler discloses a cleaning brush comprising an elongated block (8) of generally cylindrical form (claims 2 and 12), a spigot (6) extending laterally (also radially as in claim 12) from the block part way along its length (see figs 3-4) as in claim 12, a handle (5) secured to the spigot and a plurality of bristles (9) secured to the block with some of the bristles surrounding the spigot which bristles extend in the direction of the spigot towards the handle.

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4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by DT 687,807. '807 discloses a cleaning brush comprising an elongate block (20), a spigot (17) extending laterally from the block, a handle (15) secured to the spigot and a plurality of bristles (22) secured to the block including bristles surrounding the spigot which extend in the direction of the spigot towards the handle.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DT 687,807. '807 discloses the invention substantially as claimed with the exception of the spigot being "unitarily formed" with the block. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the block and spigot "unitary", since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bauler (USP 2,124,647). The patent to Bauler discloses the invention substantially as claimed with the exception of the block ends being part-spherical or hemispherical. The rounding of the block ends would be an obvious choice of design in order to remove any

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sharp corners. It is further pointed out that the claim does not recite that any bristles extend from these ends.

8. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauler (USP 2,124,647) in view of FR 472,405. The patent to Bauer discloses the invention substantially as claimed with the exception of nature of the connection between the spigot and the handle. '405 discloses, also in a toothbrush, a connection between a spigot (including e) and a handle (b) wherein the handle includes a recess (d) within which the spigot is fitted and wherein the two elements are secured with a pin (f). It would have been obvious to one of ordinary skill to have modified the device of Bauler so that these elements could be further disassembled or replaced.

Response to Arguments

9. Applicant's arguments with respect to claims 1-6 and 12 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

10. The following claim drafted by the examiner and considered to distinguish patentably over the art of record in this application, is presented to applicant for consideration:

Claim 13. (new) A brush for cleaning purposes comprising:

an elongate generally cylindrical block having opposed ends, the ends of the block having a part-spherical or hemispherical shape;

a spigot extending laterally from the block intermediate the ends thereof;

a handle secured to the spigot and offset relative thereto; and

a plurality of outwardly-extending bristles secured to the block and covering generally the entire surface thereof including the ends, the plurality of bristles including bristles on a region of the block surrounding the spigot which bristles extend in the direction of the spigot towards the handle.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (703) 308-2920. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "Mark Spisich", with a long horizontal flourish extending to the right.

Mark Spisich
Primary Examiner
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MS